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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

MURRAY, JEFFREY H

ART UNIT	PAPER NUMBER
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1624

NOTIFICATION DATE	DELIVERY MODE
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05/04/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

DETAILED ACTION

This action is in response to an amendment filed on February 16, 2010. There are sixteen claims pending and ten claims under consideration. Claims 11-13, 15 and 16 have been withdrawn. This is the second action on the merits.

Withdrawn Rejections/Objections

Applicant is notified that any outstanding rejection/objection that is not expressly maintained in this office action has been withdrawn or rendered moot in view of applicant's amendments and/or remarks.

Claim Objections

Claim 9 is objected to because of the following informalities: Claim 9 is objected to for containing non-elected subject matter within the claims. Appropriate correction is required.

Claim 3 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 3 is dependent on claim 1 and it fails to further limit the subject matter of claim 1.

Double Patenting

Claims 1-9 and 14 are rejected on the ground of nonstatutory anticipatory-type double patenting as being unpatentable over claim 1 of U.S. Patent Nos. 7,307, 172 (formerly application # 10/484,250) and 7,501,383 (formerly application # 10/590,368). Although the conflicting claims are not identical, they are not patentably distinct from

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each other because Claim 1 of U.S. Patent Nos. 7,307, 172 and 7,501,383 embrace the instant claims 1-9 and 14.

Applicants requested this rejection be withdrawn in view of MPEP 822.01. However, the current application was NOT the earlier filed of the copending applications. Now two of those applications have issued as patents, therefore the rejection is no longer provisional. The other two applications previously rejected (10/589,876 and 10/589,953) have since been withdrawn due to claim amendments which altered the scope of the claims.

Applicant is advised that should claim 1 be found allowable, claim 3, which is a multiple dependent claim will be objected to under 37 CFR 1.75 as being in part, a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim 3 is a dependent claim which depends from claim 1. Claim 3 does not further limit the subject matter in claim 1. In addition, it is noted that Claim 3 actually may "broaden" claim 1. Claim 3 recites in its definition for R^2 , "...where the carbon chains *may be* substituted by one to three groups R^c ..." (emphasis added). Claim 1 recites in its definition for R^2 , "...where the carbon chains *are* substituted by one to three groups R^c ..." (emphasis added). Claim 1 states that the R^2 groups are substituted while in claim 3 it appears as though it is optional. This would permit the carbon chains to be unsubstituted which would be a broadening of claim 1. This is not permitted. It is

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recommended that the applicants remove the claim 1 dependency from claim 3 and correct the text so that it does not broaden the claim. No new matter permitted.

Appropriate correction is required.

Conclusion

Claim 1-9 and 14 are rejected.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey H. Murray whose telephone number is 571-272-9023. The examiner can normally be reached on Mon.-Thurs. 7:30-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisors, Mr. James O. Wilson can be reached at 571-272-0661. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jeffrey H Murray/
Patent Examiner , Art Unit 1624

**/James O. Wilson/
Supervisory Patent Examiner, Art Unit 1624**